

Christopher Kende (SBN 182711)
COZEN O'CONNOR
16th Floor
45 Broadway Atrium
New York, New York 10006
Telephone: 212.509.9400
Toll Free Phone: 800.437.7040
Facsimile: 212.509.9492

Attorneys for AIR FRANCE KLM AIRLINES

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

VIOLETTE MANSOOR,

Plaintiff,

vs.

AIR FRANCE KLM AIRLINES,

Defendant..

) Case No.: 08 CV 0828 JM RBB

)
) **NOTICE OF AMENDED MOTION**
) **AND AMENDED MOTION TO**
) **DISMISS FOR FAILURE TO STATE A**
) **CLAIM UPON WHICH RELIEF CAN**
) **BE GRANTED (FRCP 12(b)6)**

) Judge: Hon. Jeffrey T. Miller
) Magistrate: Judge Ruben B. Brooks

) Date: September 26, 2008
) Time: 1:30 p.m.
) Courtroom: 16

TO PLAINTIFF AND ITS ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on September 26, 2008, at 1:30 p.m., or as soon thereafter as the matter may be heard in the above entitled Court, located at 940 Front Street, San Diego, California 92101-8900, defendant Air France KLM Airlines ("Air France") will move the Court to dismiss the action pursuant to Fed. R. Civ. P. 12(b)(6) because plaintiff's complaint fails to state a claim upon which relief can be granted, on the grounds that no liability can arise under the governing Montreal Convention except as a result of an unexpected or unusual event or happening that is external to the passenger, and because trips and falls on an aircraft, even when over objects in the aisles, are not deemed to be unexpected or unusual events within the meaning of the Montreal

1 Convention, and because there can be no failure to warn of a risk that is not itself an "event" for the
2 purpose of liability as an "accident" under the Montreal Convention,

3 The motion will be based on this Amended Notice of Motion and Amended Motion,¹ the
4 Memorandum of Points and Authorities filed herewith, and the pleadings and papers filed herein.

5 DATED: August 4, 2008

7 COZEN O'CONNOR

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9 By:  for
10 CHRISTOPHER KENDE
11 Attorneys for AIR FRANCE KLM AIRLINES
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28 ¹ The Notice of Motion was amended to provide a new Hearing Date, at Plaintiff's request. The Motion is also amended to explain the impact of a directly applicable opinion just issued by the Ninth Circuit on July 30, 2008.